

January 26, 1994

This is in response to your correspondence of October 4, 1993, requesting clarification of the Department of Transportation, Research and Special Programs Administration's Drug Testing Regulations at 49 CFR Parts 199 and 40 on the random notification procedures for small utility districts.

Your correspondence indicates that many of the small utilities have a very small number of covered employees and many of them belong to consortia which conduct the random selection and notification procedures. The problem arises when all the employees are considered to perform covered functions and this makes the notification process somewhat complex. The current practice by some of the consortia regarding random notification is to contact the operator/manager of the utility district and have that individual direct the employees to proceed to the collection site at an appropriate point during the month. The inherent problem is that the operator/manager may be on the list for random testing and now has advance notice of an impending test.

In your correspondence you requested guidance to two questions concerning this area of the regulations. Your questions are restated below with our answers.

QUESTION: Under what, if any, circumstances may the operator/manager receive the call to notify employees selected for random testing?

ANSWER: If the operator/manager is subject to the random testing provisions, then any advanced notice of pending random testing would be a potential violation since the individual would have knowledge that his/her name was on the list for testing. If the operator/manager is not subject to the random provisions, then the process of notifying the operator/manager of employees subject to random testing is acceptable.

QUESTION: What other solution may be pursued given the above mentioned parameters?

ANSWER: If all the utility employees are subject to random testing, then an acceptable method would have the consortium personnel contact each covered employee directly and provide instructions on when they must report to the collection site for a random test.

Thank you for your inquiry. Please let me know if you need additional information about our drug testing requirements.

Sincerely,

Richard L. Rippert
Drug & Alcohol Program Manager
Office of Pipeline Safety
Compliance